

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JEANETTE PIERCE,

Plaintiff,

v.

HOME DEPOT U.S.A., INC., *et al.*

Defendants.

Case No. 1:23-cv-01480-JLT-CDB

ORDER GRANTING STIPULATION OF  
DISMISSAL OF JEFFREY SEGUINE  
PURSUANT TO FEDERAL RULE OF CIVIL  
PROCEDURE 41

(Doc. 8)

Clerk of Court to Update Docket

On or about August 9, 2023, Plaintiff Jeanette Pierce filed a complaint against Defendants Home Depot U.S.A., Inc., Crown Lift Trucks, Crown Equipment Corporation, and Jeffrey Seguire (“Seguire”) in the Superior Court of the State of California, County of Kern. (Doc. 1). On October 16, 2023, Defendant Crown Equipment Corporation removed the action to this Court. (Doc. 1).

On October 23, 2023, Defendant Seguire filed a motion to dismiss Plaintiff’s claims against him with prejudice. (Doc. 7). The next day, Plaintiff and Seguire filed a stipulation of dismissal as to all claims and causes of actions against Seguire without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

Pursuant to Federal Rule of Civil Procedure 41(a)(1), a “plaintiff may dismiss an action without a court order by filing [either] (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment, or (ii) a stipulation of dismissal signed by

1 all parties who have appeared.” Fed. R. Civ. P. 41(a)(1). Once a dismissal under Rule 41(a)(1)  
2 is properly filed, no order of the court is necessary to effectuate dismissal; the dismissal is  
3 effective automatically. *Commercial Space Mgmt. Co. v. Boeing Co.*, 193 F.3d 1074, 1078 (9th  
4 Cir. 1999)

5 Here, Plaintiff and Defendant Seguire frame their filing as a “stipulation of dismissal.”  
6 Even though the stipulation is not signed by all the parties who have appeared in the action, the  
7 Court acknowledges that counsel who signed the stipulation on Defendant Seguire’s behalf  
8 represents all other Defendants. In all events, because Defendant Seguire has not served either  
9 an answer or a motion for summary judgment, Plaintiff retains the inalienable right to notice his  
10 dismissal without consent of the party to be dismissed (Seguire).

11 Accordingly, this action is terminated by operation of law only as to Defendant Seguire  
12 without prejudice, with each party bearing that party’s own attorney’s fees and costs, without  
13 further order from the Court.

14 The Clerk of Court is DIRECTED to terminate Defendant Seguire only.

15 Further, the Clerk of Court is DIRECTED to terminate Defendant Seguire’s motion to  
16 dismiss (Doc. 7) as the motion is rendered MOOT by Defendant Seguire’s dismissal.

17 IT IS SO ORDERED.

18 Dated: October 30, 2023

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UNITED STATES MAGISTRATE JUDGE